# Smart Snacks in School:
# Questions and Answers Regarding the Interim Final Rule

***Updated or new questions are noted with three asterisks (***).***

## Combination Foods

**1. What is a combination food?**
A combination food is defined as a product that contains two or more components representing two or more of the recommended food groups: fruit, vegetable, dairy, protein or grains. If a combination food does not meet the general standards by being (1) a grain product that contains 50 percent or more whole grains by weight or have whole grains as the first ingredient **or** (2) having one of the non-grain major food groups as a first ingredient (fruits, vegetables, dairy, protein food) **or** (3) a food that contains 10 percent of the Daily Value of a nutrient of public health concern from the DGA (i.e., calcium, potassium, vitamin D or dietary fiber), then such a combination food must contain ¼ cup of fruit and/or vegetable. Combination foods must also meet the specific nutrient standards specified in the Smart Snacks interim final rule.

**2. What is an example of a combination food?**
One example of a combination food is a blueberry muffin. A blueberry muffin may not meet the general standard if it does not contain 50% or more whole grains by weight or if the first ingredient listed is not a whole grain, fruit, vegetable, dairy or protein item. However, if the muffin contains refined grains and ¼ cup of blueberries, the muffin meets the general standard requirement as a combination food that contains ¼ cup fruit and/or vegetable. (Additionally, the muffin must also meet the specific nutrient standards for fat, sugar, sodium, etc.) Some other examples of combination foods would be the Harvest Stew or Vegetable Chili Boat recipes from the Recipes for Healthy Kids contest. Each of these soups contains at least ¼ cup of vegetable and meets the nutrient standards and may be allowable under the Smart Snacks standards in appropriate portions.

**3. Are any combination foods exempt from the nutrient standards?**
There are only two types of combination foods exempt from all or some of the nutrient standards. Canned, fresh, and frozen fruits and vegetables that are combined may be exempt from all of the nutrient standards as long as there are no added ingredients except water. For example, fresh salsa made from tomatoes, onions, and garlic, with no other ingredients, is exempt from each of the nutrient standards.

While combination foods comprised entirely of fruits and/or vegetables are exempt from all the nutrient standards, there are some other combination items that are exempt from a subset of nutrient standards. Specifically, items that are made from only dried fruit, nuts, and/or seeds are one specific type of combination food item that is exempt from the total fat standard, saturated fat standard, and the sugar standard as long as such products contain no added nutritive sweeteners or fats. Such products are still subject to the calorie, trans fat, and sodium standards.

**4. Would two items packaged together as a snack be considered a combination food as long as the package contains ¼ cup of a fruit or vegetable?**

Yes. For example, a 100-calorie pouch of small chocolate chip cookies (approximately 21 grams) combined with one small banana (approximately 100 grams) is a combination item if packaged and sold together; the cookies contain grain and the small banana is about ½ cup of fruit. The nutrients for this example combination are 190 calories, 3 g of fat (14% calories from fat), 1 g of saturated fat (5% calories from saturated fat), 0 g trans fat, 95 mg of sodium, and 20 g of sugar (17% sugar by weight).

**5. Would a side salad meet the nutrient standards and/or is it considered to meet the standards as a combination food?**
A side salad may qualify based either on the first ingredient being a vegetable or as a combination food. For example, 1 cup of romaine lettuce, ¼ cup sliced cucumbers, 8 cherry tomatoes, 4 croutons, and 1 tablespoon of low-calorie Caesar dressing that contains 57 calories, 1 gram of fat (16% of calories from fat), 0 g saturated fat, 0 g trans fat, 191 mg of sodium, and 4% sugar by weight would be allowable.

**6. May cheese and crackers be sold?**
To meet the general standard, the first ingredient in cheese and crackers packaged together must be either a dairy food or a whole grain. Cheese and crackers must also meet all of the specific nutrient standards. If the cheese and the crackers are packaged separately and sold as separate items, reduced-fat cheese or part-skim mozzarella would be exempt from the total and saturated fat standard but subject to all other standards, while the crackers would need to have as the first ingredient a whole grain and meet all other Smart Snacks nutrition standards.

## Beverages

**1. Now that the restrictions on the sale of other beverages during the meal service have been eliminated in the interim final rule, may a student select juice or a diet soda instead of milk for a reimbursable meal?**
No, the Smart Snacks Interim Final rule does not change the meal pattern and nutrition standards for the National School Lunch Program (NSLP) or the School Breakfast Program (SBP). Milk is one component of a reimbursable meal. The milk component may be declined in the case of offer vs. serve. However, beverages, other than juice and smoothies offered as the fruit or vegetable component of the reimbursable meal, would have to be purchased a la carte.

**2. How can I tell if my 20 fl oz beverage may be sold in high schools?**
Use the nutrition facts panel as the guide. Beverages with ≤ 10 calories per 20 fl oz may be sold in containers up to 20 fl oz. Additionally, if a beverage is labeled as < 5 calories per 8 fl oz, and there are not more than 2.5 servings in the 20 oz container, it may be sold.

**3. For the "Other" beverages category in high school, are the calorie limits proportional, or may I serve a four ounce beverage that has 60 calories?**
The standard for lower calorie beverages in high school is ≤40 calories per 8 fl oz, or ≤60 calories for 12 fl oz. This is intended to be proportional. This means that these other beverages may have not more than 5 calories per fluid ounce. A smaller serving of a beverage that contains the maximum calories for a 12 fl oz beverage would **not** meet the standard.

**4.*** How can I be sure that juice meets the standard for being full-strength 100-percent juice?**
The Food and Drug Administration (FDA) requires beverage labels for products that contain juice to include a percent juice declaration on the product carton. When the product carton has the FDA required percent juice content declaration printed as "100% juice" , the product meets the Smart Snack standard for being full-strength, 100-pecent juice and can be sold in the appropriate portion sizes, (≤ 8.0 fluid ounces for elementary schools and ≤ 12.0 fluid ounces for middle and high schools.)

**5.*** Diluted juice is allowed in Smart Snacks. How do I make sure that the juice product was 100% juice prior to being diluted with water?**
Packaged juice that has been diluted with water will have the FDA required percent juice declaration printed on the label as "contains ____-percent juice" where the blank is filled in with the percent of full strength, 100-pecent juice that is contained in the diluted juice drink. The additional information from the ingredient list will indicate that it has been diluted with water and whether or not it has added sweeteners.

In other words, if the product name is, "apple juice drink" with the ingredients listed as, "water and apple juice concentrate," and the product carton has the percent juice declaration statement listed as, "Contains 70% Juice" or "70% Juice," then the product is full-strength apple juice diluted with water at the ratio of 70-percent juice to 30-percent water. Provided there are no added sweeteners, this product can be sold in the allowed portion sizes (≤ 8.0 fluid ounces for elementary schools and ≤ 12.0 fluid ounces for middle and high schools).

**6.*** May 100% juice contain added sweeteners?**
Yes. The FDA allows added sweeteners such as sugar in products labeled as "100% juice." The Smart Snacks regulation only prohibits added sweeteners in diluted juice (carbonated or noncarbonated with no added sweeteners).

**7.*** There are many beverages on the market that are labeled as *probiotic dairy drinks*, *drinkable yogurt*, *milk shakes, and/or high protein lowfat milk.* Are such drinks allowable Smart Snack beverages?**
Allowable milk beverages for all grade levels in Smart Snacks include unflavored low fat and flavored or unflavored nonfat milk, Kefir (cultured milk), buttermilk, acidified milk, acidophilus milk, or nutritionally equivalent milk alternatives as permitted by the school meal requirements. This category does not include other dairy drinks or milk beverages. Most of these other products have a deviated statement of identity on the product carton such as *probiotic dairy drink*, *drinkable yogurt*, *milk shake, or high protein low fat milk* because these dairy drinks and milk beverages do not meet the Federal standard of identity to be labeled as milk. Therefore, these dairy drinks and milk beverages do not meet the Smart Snacks milk standards, but may be sold, if they meet the requirements under the low and no calorie beverage standards for high school students only.

**8.*** Are smoothies allowed under the Smart Snacks requirements?**
Yes, smoothies may be sold under the Smart Snacks requirements. There are two types of smoothie products, food smoothies and beverage smoothies. In addition, there are two categories of food smoothies, entrée smoothies and snack smoothies.

**9.*** When would a smoothie be considered a beverage?**
A smoothie is considered to be a beverage when it is comprised entirely of beverages that are currently allowable under the Smart Snacks standard for 100 percent juice, low fat or non fat milk (including milk alternatives), and water (or ice). For example, a smoothie made from 100% fruit juice, 1% milk and blended with ice would be considered to be a beverage smoothie. The serving size of this beverage smoothie is limited to not more than 8 fl oz for elementary schools and not more than 12 fl oz for middle and high schools.

**10.*** When would a smoothie be considered a food?**
A smoothie is considered to be a food when the smoothie meets the general standard by including one of the main food group categories as the first ingredient and meets the specific nutrient standards. For example, if a smoothie consists of pieces of strawberries, banana slices, pineapple juice and ice, the smoothie may be considered to be a food smoothie since it contains pieces of fruit. This type of smoothie would be considered to be a snack since it does not meet the definition of an entrée (i.e., does not contain a meat/meat alternate) but does meet the general and nutrient standards.

**11.*** What if a smoothie contains a meat/meat alternate?**
As stated in Q10, for a smoothie to count as a food, the first ingredient of the smoothie must meet the general standard by being an item included in one of the main food group categories and must meet the specific nutrient standards. If a smoothie also contains a meat alternate, such as yogurt or peanut butter as well as a fruit or vegetable, it would not only be considered to be a food smoothie, but would also meet the definition of an entrée item and may be sold as such.

**12.*** If a smoothie is served as a breakfast entrée item, is it exempt from the standards?**
Yes, if a smoothie is served as a breakfast entrée item in the SBP, it is exempt from the Smart Snacks standards on the day of service and the day after service in the reimbursable breakfast meal.

**13.*** In high school, could a beverage smoothie have added sweeteners?**
If a beverage smoothie (combines allowable beverages) is sold in high school and contains added sweeteners, it would fall into the "Other" allowable beverage category for high school. When this is the case, the smoothie must meet the calorie and size restrictions for that beverage category, i.e., ≤60 calories per 12 fl oz (or 5 calories/1 fl oz) with a maximum size of 12 fl oz.

**14.*** Would a frozen fruit product labeled as 100-percent juice (i.e., frozen fruit bars, frozen fruit cups, frozen fruit pops) count as a food or beverage?**
School districts have the flexibility to choose whether a frozen fruit product will be categorized as a food or a beverage. If a school district decides that it wants to sell a frozen fruit product as a food, the product must contain one of the a main food groups (protein, dairy, fruit, vegetable ) as the first ingredient, it must be 200 calories or less and it must meet all the nutrient standards for smart snacks. If a school district decides that it wants to sell a frozen fruit product is a beverage, 8 fluid ounces is the maximum serving size for elementary schools and 12 fluid ounces is the maximum serving size for middle and high schools.

**15. If coffee and tea are sold, may the students have cream and sweetener for their beverages?**
Yes, cream and sweeteners are accompaniments to coffee and tea. The sugar and cream must be included in the evaluation of the coffee or tea against the beverage standard. The use of accompaniments may be averaged over the number of drinks sold. The other beverage standard in high school permits ≤60 calories per 12 fl oz; this is the same as ≤5 calorie per 1 fl oz. If a smaller beverage is served, the calories may not exceed 5 calories per fl oz, for example a 6 fl oz beverage may have no more than 30 calories.

**16. May espresso and steamed (or boiled) milk beverages be sold, such as lattes and cappuccinos?**
Yes, as long as the beverage sold is comprised of two allowable beverages. Espresso (or coffee) is allowable at the high school level only and may be combined with skim milk, flavored or unflavored. Espresso (or coffee) may also be combined with 1% milk, as long as there is no added flavoring. Additionally, it would be acceptable to sell an espresso beverage over ice or blended with ice. All final beverage sizes must be no more than 12 fl oz.

## Soy Products

**1. Do soy products, like meatless burgers, meet the general standard of as a protein food?**
Processed soy products that have tofu, soybean, texturized vegetable protein (TVP), soy protein isolate, soy flour, or soy protein concentrate as the first ingredient meet the general standard requirement as a protein food. Such foods also need to be evaluated to ensure that the product meets the Smart Snacks nutrient standards.

**2. Are soy nuts a protein food?**

Soy nuts are **dried** soybeans that fall into both the protein group and vegetable group. Since the Smart Snacks requirements exempt only "fresh, frozen and canned vegetables with no added ingredients except water," (and canned vegetables with a small amount of sugar for processing), soy nuts would **not** be exempt from the nutrient standards. However, even though soy nuts would *not* be exempt from all nutrient standards as a vegetable, they **would be** exempt from the total fat and saturated fat requirements, under the nut/seeds exemption. Remember, soy nuts are still subject to the calorie, trans fat, sugar and sodium standards.

**3. Do fortified soy-beverages meet the standard to be sold?**
If a fortified soy-beverage meets the standard to be served in NSLP as a fluid milk substitute per 210.10(d) it may be sold. If the standard is met, these beverages need to adhere to the appropriate beverage standards for Smart Snacks, 8 fl oz or less in elementary school and 12 fl oz or less in middle and high schools.

## Entrees

**1.*** What is considered to be an entrée in Smart Snacks?**
The Smart Snacks in School regulation at §210.11(a)(3) defines an entrée as an item that is either:
 A combination food of meat or meat alternate and whole grain rich item ;
 A combination food of vegetable or fruit and meat or meat alternate; or
 A meat or meat alternate alone, with the exception of yogurt, low-fat or reduced fat cheese, nuts, seeds and nut or seed butters and meat snacks (such as dried beef jerky).

The preamble to the proposed rule provided several examples for each part of the entrée definition. These included examples of the following three categories of main dish food items:

> (1) A combination food of meat or meat alternate and whole grain-rich bread (for example, turkey sandwich, peanut butter on whole grain-rich bread, pizza with whole grain-rich crust, hot dog or hamburger on a whole grain-rich bun, a bean and cheese burrito, nachos with chili and cheese);
>
> (2) A combination food of vegetable or fruit and meat or meat alternate (for example, chef's salad, fruit and cheese platter, chicken vegetable stir-fry); or
>
> (3) A meat or meat alternate alone (e.g., fish filet, Salisbury steak, seafood, egg or chicken) with the exception of yogurt, low-fat or reduced fat cheese, nuts, seeds and nut or seed butters.

While the preamble to the interim final rule did not repeat the specific examples above or the term "main dish" the intent of the interim final rule definition of entrée is to be consistent with the proposed rule discussion. The final rule will clarify that the definition of entrée intends for the item to be a "main dish".

**2. Is a cheese sandwich or a peanut butter sandwich considered an entrée item?**
Yes. A combination meat/meat alternate and whole grain-rich food meets the definition of an

entrée item. Cheese or peanut butter alone is not considered to be an entrée; however, when combined with whole grain-rich bread, these sandwiches are entrée items. Unless served as an entrée in the NSLP on that day or the day after, all entrée items must also meet the Smart Snacks general and nutrient standards.

**3. Does yogurt with fruit count as an entrée?**
Yogurt meets the Smart Snacks general standard as a dairy product. However, when combined with fruit or vegetables, or a whole grain rich food (e.g., granola), it becomes a combination food of a meat/meat alternate and fruit or vegetables, or meat/meat alternate and a whole grain rich food which becomes an acceptable entrée. It is important to note, however, that the interim final rule prohibits yogurt alone from being considered an entrée item.

**4. How often may entrees served as part of a reimbursable meal that do not meet the Smart Snacks standards be sold a la carte to students?**
The interim final rule provides that entrees that have been served as part of the NSLP or SBP reimbursable meal are exempt from the Smart Snacks food standards on the **day of service** in the NSLP and SBP, as well as the **day after** such an entrée is served in the NSLP or SBP as part of the reimbursable meal. This means that such entrée items may be sold to students a la carte on the same day that they are served as part of the reimbursable meal, as well as the day after such an entrée item has been served as part of the NSLP or SBP meal. Leftover entrees may also be re-served at anytime as part of a reimbursable meal without regard to the Smart Snacks restrictions.

**5. When considering entrée exemptions on the same day and the next school day may a breakfast entrée be served during lunch and be exempt and vice versa?**
Yes, this is acceptable. Please note that such exempt entrees are required to be served in the same or smaller portion size than the NSLP and SBP entrée.

**6.*** Are traditional grain products made in a non-traditional way, such as bean pasta, bean tortilla chips, and bean crackers, with beans or bean powder as the first ingredient, measured against the entrée standards or the snack standards?**
Non-traditional grain products such as pasta, tortilla chips, and crackers made with meat alternates such as beans or bean powder as the first ingredient, by themselves are not considered an entrée for Smart Snacks. These non-traditional grain products, when sold by themselves may be measured against the snack standards because they meet the general standard that requires a non-grain food group as the first ingredient. However, when these non-traditional grain products are combined with a meat/meat alternate alone or with a meat/meat alternate and a vegetable or with a meat/meat alternate and a fruit, the combination may be measured against the entrée standards for Smart Snacks. For example, lentil crackers combined with hummus may be sold as an entrée, assuming the combined item meets the entrée standards.

**7.*** If the school food service serves a commercial brand pizza for the reimbursable school lunch meal, may the commercial company sell the same commercial brand pizza in the same building on their own for profit or does the entrée have to be provided through the food service department?**
The Smart Snacks in School regulation provides an exemption for entrée items served as the entrée in the reimbursable school meal. Such entrees may be sold on that same day and the day after at any venue in the school, such as the school store, snack bar, etc. It is at the discretion of the school district or school as to whether or not to allow retail operators to sell such foods in schools on the day of and/or the day after such an item is served in the reimbursable meal.

**8. How do I count accompaniments for exempt entrées?**
As with the NSLP, accompaniments are part of the meal offered and must be considered when conducting a nutrient analysis to determine compliance with the weekly dietary specifications (calories, sodium, trans fat, etc) for the reimbursable meal programs and for the a la carte meals to ensure that such meals comply with the Smart Snacks standards. Accompaniments are never considered to be exempt from the Smart Snacks in School standards, even when they accompany an exempt entrée item sold a la carte. Salad dressings or condiments do not need to be on the plate when the food item is served; however, the amount of the accompaniments used during the meal service must be averaged into the nutrient profile of the relevant reimbursable meals and a la carte entrees served that day in order to evaluate compliance with the NSLP/SBP meal pattern and the Smart Snacks requirements. The preamble to the interim final rule also discusses this issue.

## Nutrition Standards

**1. How do I calculate the percentage of calories from fat contained in an item?**
There are two methods of calculating this percentage based on the information found on the nutrition facts panel. Both are acceptable, though they may yield slightly different results (see Q. 13). The nutrition facts panel includes total fat in two places: (1) listed as calories from fat near the top, and (2) listed in grams with the other nutrients. The percent of calories from fat may be calculated using either number.

**Nutrition Facts**
Serving Size 1 oz (28g)
Serving Per Container 1

| Amount Per Serving | |
|---|---|
| **Calories** 140 | Calories from Fat 50 |
| | **% Daily Values*** |
| **Total Fat** 5g | **8%** |
| Saturated Fat 0.5g | **3%** |
| Trans Fat 0g | |
| **Sodium** 200mg | **8%** |
| **Total Carbohydrate** 18g | **6%** |
| Dietary Fiber 3g | **12%** |
| Sugars 2g | |
| **Protein** 3g | **6%** |

*Percent Daily Values are based on a 2,000 calorie diet.

To calculate using the calories from fat information, take the calories from fat listed on the label and divide by the total calories, then multiply by 100. Using the nutrition facts panel example shown here to calculate the calories from fat method, the calculation would be as follows: 50 calories ÷ 140 calories x 100 = 35.7 percent of calories from fat.

To use the grams of total fat method, take the grams of fat on the label and multiply by 9 (the calories in each gram of fat), divide that result by the total calories, then multiply by 100. Using the nutrition facts panel example here, the calculation would be: 5 grams x 9 calories ÷ 140 calories x 100 = 32.14 percent of calories from fat.

**2. It appears that these two methods may give different results when calculating the percentage of calories from fat. If so, which calculation should be used?**
These two methods will often provide slightly different results because the FDA has different rounding rules for the labeling of each of these nutrients on the nutrition facts panel. However, if either method results in less than or equal to 35 percent of calories from fat (do not round the result), the product will meet the total fat standard. The example above could be sold since the result, using the grams of total fat, is less than or equal to 35 percent of calories from fat.

**3. Must I always use both methods to calculate the percentage of calories from fat?**
We recommend you start by using the calories from fat listed at the top of the nutrition facts panel. If the result is less than or equal to 35 percent of calories from fat, there is no need to do the calculation with the total fat grams. If the result does not meet the standard, use the grams of total fat to determine if the item meets the total fat standard.

**4. How do we calculate the percentage of calories from saturated fat in an item?**
To calculate the percentage of calories from saturated fat, take the grams of saturated fat and multiply by 9 (the calories in each gram of saturated fat), divide that result by the total calories, then multiply by 100. Using the nutrition facts panel from question 12, the calculation would be: (0.5 grams x 9 calories) ÷ 140 x 100 = 3.2 percent. Do not round the result since the standard is less than 10 percent of calories from saturated fat. A product with up to 9.9 percent of calories from saturated fat will meet the standard.

**5. How do I calculate the percent of sugar by weight?**
To calculate the percentage of sugar by weight, take the grams of sugar on the nutrition facts panel and divide that by the total weight of the food in grams. Using the nutrition facts panel from question 12, the calculation would be: 2g (grams of sugar) ÷ 28g (total weight of food) x 100 = 7.14% sugar by weight. Total sugar must be no more than 35 percent by weight. Do not round the result.

**6. Which dried fruit items may have added nutritive sweeteners and still be exempt from the sugar standard?**
The regulation permits dried fruit with nutritive sweeteners that are required for processing and/or palatability purposes to be exempt from the sugar standard only. Such items, however, must meet the Smart Snack calorie, total fat, saturated fat, trans fat, and sodium standards. At this time, the only types of dried fruit that may have added nutritive sweeteners and be exempt from the sugar standard are dried cranberries, dried tart cherries, and dried blueberries.

**7. When is frozen fruit with added sugar considered to be equivalent to canned fruit packed in extra light, or light syrup, and therefore exempt from the standards?**
Frozen fruit with added sugar is processed differently than canned fruit with light syrup. Sugar is added to fruit prior to freezing as a ratio (for example, 11 pounds of fruit to 1 pound of sugar), not as a liquid syrup (for example, light syrup used in canning). When a frozen fruit product has approximately 20% sugar by weight, it is similar to fruit canned in light syrup. Therefore, when a frozen fruit product has added sugar and the sugar by weight is 20% or less, it is exempt from the calories, total fat, saturated fat, and sodium standards.

It is important to note that any fruit product with sugar may be evaluated against the standards and be sold as long as it meets all the requirements. For example, if a product's first ingredient is a fruit and all the nutrient standards (including calories and sugar by weight) are met, the product may be sold.

**8. Will USDA-approved nutrient analysis software include sugars?**
Yes. All USDA-approved nutrient analysis software will have sugars included by July 1, 2014. Anyone who does not receive an update to their software with the current CN Database (CN18) by July 1, 2014, should contact his or her software company.

**9. There is a discrepancy between the preamble and the regulatory text with regard to the saturated fat requirements for allowable foods. Could you clarify the saturated fat requirement? In addition, please clarify the trans fat limit.**

Saturated Fat Requirement
Foods eligible to be sold must derive **less than** 10 percent of their calories from saturated fat. A food that has exactly 10 percent of calories from saturated fat would **not** meet the standard. The preamble incorrectly states the requirement. However, the regulation at §210.11(f)(1)(ii) correctly states the requirement that the saturated fat content of a competitive food must be less than 10 percent of total calories per item as packaged or served, with specific exemptions as specified in (f)(3) of the regulation.

Trans Fat Requirement
Per FDA labeling requirements, a product must have less than 0.5g of trans fat to be labeled as a product that contains 0g trans fat. Program operators should only select foods that contain 0g of trans fat as stated on the nutrition facts panel (unless it is a naturally occurring trans fat). We are aware that there is a discrepancy between what is in the Smart Snacks preamble and regulation and the FDA requirements for labeling a product as 0 grams of trans fat. This error will be corrected in the final rule. The requirement for Smart Snacks is that a product must be labeled as 0 g of trans fat (contain less than 0.5 g) to be allowable, consistent with the FDA labeling requirements.

**10. May popcorn qualify as a Smart Snack?**
Popcorn is whole grain and may be eligible as a smart snack, provided it meets all applicable standards. The ingredient label must list the first ingredient as popcorn to meet the general standard. There are many different types of popcorn available on the market, some with added fats and/or sugars, therefore, the nutrition facts panel or product specifications must be checked to determine if the product meets the nutrition standards.

**11.*** Does a dried/dehydrated fruit or vegetable listed as the first ingredient qualify a product under the general standards for Smart Snacks?**
Yes. A dried/dehydrated fruit or vegetable such as dried cherries or potato flakes listed as the first ingredient does qualify the product under the general standard for Smart Snacks. All nutrient standards must be met for calories, total fat, saturated fat, trans fat, sodium and sugar.

In addition, vegetable puree (tomato puree), fruit puree and concentrated vegetable puree (tomato paste) qualify as a fruit/vegetable under the general standards. Juice and juice blends made from concentrate when water is added in the correct amount (100% juice) are also considered a fruit/vegetable ingredient. However, **dehydrated or concentrated fruit juice or concentrated fruit puree** listed as the first ingredient is considered added sugar and does not qualify a product for sale under the general standard.

**12.*** Should sugar alcohols be included when calculating total sugar?**
No, sugar alcohols should not be treated like sugar.

**13.*** May I use a product specification sheet or product sales literature rather than an actual product label with the *Nutrition Facts* panel in making Smart Snacks in School decisions?**
While actual product labels or cartons are preferred, individuals interested in assessing products against the Smart Snacks in School nutrient standards may use properly documented specification sheets or sales literature provided by the food manufacturer or supplier. Properly documented informational materials are documents that are presented on company letterhead or designed portfolios complete with contact information and product identification. In some cases, these informational materials may include raw or unrounded nutrient data and these data can be used to assess the product against the Smart Snacks nutrient standards. The individuals making decisions are not required to follow any rounding rules; the information can be used as-is. The intent is that the decisions can be made with the information that is in front of them during the process. It is important that the product labels or the product specification sheets/product sales literature be maintained for record keeping and monitoring purposes.

**14.*** How do we determine whether frozen fruit and/or juice bars, frozen yogurt, or ice cream meet the Smart Snacks standards when serving size information is provided in fluid ounces or milliliters instead of by weight (grams)?**
To evaluate product information that is provided in fluid ounces or milliliters rather than by weight (grams), the fluid ounce serving size will need to be converted from fluid ounces to weight in grams. The simple conversion for this is: 1.0 fluid ounce = 29.57 grams. If serving size information is presented in milliliters (mL), then the individual will need to convert mL to weight in grams. The simple conversion for this is: 1.0 mL = 1 gram.

**15.*** Are ice cream products with milk fat as the first ingredient allowable as a Smart Snack?**
Since milk fat is not considered to be a dairy food, products that list milk fat or other milk components as the first ingredient would not meet the Smart Snacks general standard as having as the first ingredient from one of the non-grain main food groups. However, if the product carton or the ingredient declaration specifies that the product is "ice cream" and then follows with an ingredient list that includes milk fat, milk solids or cream, the product can be measured against the nutrition standards for snacks. This is because "ice cream" meets a specific Federal standard of identity and is considered to be a "dairy food". Dairy foods meet the Smart Snacks general standard and are allowable in accordance with the Smart Snacks regulation

## Fundraisers

**1.*** What is considered a fundraiser?**
USDA considers a fundraiser to be an event that includes any activity during which currency/tokens/tickets, etc. are exchanged for the sale/purchase of a product in support of the school or school-related activities. For example, giving away food but suggesting a donation would be considered a fundraiser since funds will be raised as a result. Another example may include a vending machine when the profits are used to support a school-sponsored club or activity such as the school band or football team. Purchasing tickets or tokens to be exchanged later for food items would also be considered to be a sale of food and/or a fundraiser and would be subject to the Smart Snacks standards.

**2.*** What if tickets or tokens are provided to students as rewards? Would items exchanged for such tickets have to comply with the Smart Snacks standards?**
If a ticket or a token is given to a student for good behavior or good grades – a behavioral or performance award – and no money is exchanged in order to acquire the ticket/token, the exchange of the reward ticket or token would not be considered a sale to the student.

**3. What is the allowable length of an exempt fundraising event?**
State agencies should address what is considered to be an appropriate timeframe for an exempt fundraising event and include such information as a part of their established exempt fundraiser policy which determines the maximum frequency for exempt fundraisers in schools in the State. It is expected that State agencies will establish a reasonable exempt fundraiser policy consistent with the intent of the law that such fundraisers occur on an infrequent basis. For example, considering a vending machine that is available every day during the school year as a single fundraiser or permitting regular week-long or month-long fundraisers would not meet the statutory and regulatory intent with regard to infrequent fundraiser exemptions.

**4. The Smart Snacks rule gives the States authority to set a limit on the number of fundraisers that may be exempted from the nutrition standards. What if my State doesn't set a limit?**
The interim final rule allows State agencies to set the frequency with which exempt fundraisers may be held in schools in the State. If a State agency does not specify the exemption frequency, no fundraiser exemptions may be granted to the schools in the State.

**5. My State has specified the number of school fundraisers that can be exempt from the Smart Snacks requirements. Do I have to allow that number of fundraisers to occur in my school?**
The State-established level is the maximum number of exempt fundraisers during which foods that do not meet the Smart Snacks standards may be sold to students. As LEAs and schools are allowed to implement more restrictive competitive food standards, we anticipate that they would also be allowed to implement more restrictive standards for the frequency with which exempt fundraisers may be held in their schools. However, LEAs and schools should direct any questions about the State-established fundraiser standard to their State agency.

**6. Does the limit apply to all fundraisers in my school?**
A fundraiser limitation established by the State applies only to exempt fundraisers, during which foods that do not meet the regulatory requirements may be sold to students on the school campus during the school day. There are no restrictions on the number of fundraisers that include the sale of food items that meet the Smart Snacks standards as well as the sale of non-food items. In addition, the Smart Snacks standards do not apply to food sold during non-school hours, weekends, and off-campus fundraising events such as frozen pizza sales or concessions during after-school sporting events, school plays or concerts.

**7.*** If a Superintendent or principal of a school arranges with local food truck vendors to sell items to the students on the school campus during the school day and the school receives a percentage of funds from the sale of such foods, would this be considered to be a fundraiser?**
This scenario depicts the operation of a fundraiser and would only be allowable on the school campus during the school day if the food items sold meet the standards, or if it is one of the exempt fundraisers permitted within the limits established for such exempt fundraisers. Addressing such practices in the school wellness policy is encouraged.

**<u>Sale of Food</u>**

**1.*** If pizza or any other food is sold in a classroom, is it subject to the Smart Snacks rule?**
All food sold to students anywhere on the campus during the school day is subject to the Smart Snacks regulatory requirements. The Smart Snacks standards do not apply to food given to students without the exchange of currency/purchased tokens/purchased tickets or to food brought to school by the students for their own consumption.

**2. Do the Smart Snacks requirements apply if items are sold to someone other than a student?**
The Smart Snacks nutrition requirements apply only when foods outside of the school meal programs are sold or available to be sold to students during the school day, on the school campus, as defined in the interim final rule. The requirements of the interim final rule are not applicable to food sold to non-students, such as parents or school faculty/staff members.

**3.*** If the school food service sells food items to the school for a special event, such as a school celebration, holiday party, etc., and the food will not be sold to students, will the Smart Snacks nutrition requirements apply?**
The Smart Snacks nutrition standards included in the interim final rule apply only to food **sold** to students on the school campus during the school day. If such foods are provided to the students free of any charge or "contribution", or the exchange of purchased tokens or purchased tickets of any sort, the competitive foods standards do not apply.

**4.*** A PTO or teacher collects money from each student at the beginning of the year to cover the cost of foods provided to students during classroom parties throughout the year or a fee is collected from each student for a classroom party several days prior to the party. Would this be considered to be "sales" to students and would the Smart Snacks standards apply?**
Classroom parties and celebrations where students or teachers supply the food or provide funds to purchase the food are not subject to the Smart Snacks standards. Instead, such parties are subject to the local wellness policy, and should comply with the standards of that policy.

**Applicability of the Smart Snacks Standards**

**1. How does this rule impact schools that also participate in the NSLP afterschool snack program or any part of the Child and Adult Care Food Program (CACFP)?**
The Smart Snacks standards are applicable during the school day, which is defined as the midnight before to 30 minutes after the end of the instructional day. If such programs are operated in the school during the school day, or if afterschool snacks or meals are provided within the 30 minute window after the end of the instructional day, any other food available **for sale** to students at that time must comply with the Smart Snacks requirements.

**2. Are schools that do not participate in the National School Lunch Program (NSLP) or the School Breakfast Program (SBP) required to comply with the Smart Snacks interim final rule?**
Schools that do not participate in the NSLP or SBP are not required to comply with the Smart Snacks interim final rule. For example, schools that only participate in the Special Milk Program are not required to comply with Smart Snacks guidelines, although it is encouraged in order to improve the overall nutrition environment in schools.

**3. Do the Smart Snacks standards apply to the Summer Food Service Program (SFSP)?**
The Smart Snacks standards do not apply to the SFSP unless the SFSP is operated at a school during the school day during which summer school NSLP meals are being served on campus, as discussed in the previous question.

**4. If the school allows other community organizations to use parts of the school building during the school day for community activities not open to students in the school, must food sold to participants in those activities comply with the Smart Snacks standards?**
USDA has statutory authority only over the food sold to students on the school campus during the school day. If outside groups are utilizing the school facilities during the school day and the activities are completely separate and not accessible to the students, then food sold to those outside community group members would not be subject to the Smart Snacks requirements. However, any food available to be sold to students on that school campus during the school day is required to conform to the Smart Snacks standards.

**5. If both middle school and high school students are located in the same building, which beverage standards should be implemented in the school?**
If a middle school and high school are in the same building, and all students have access to all venues in the school, the items available for sale to the students (beverages) must meet the middle school standards. If, in the above situation, the middle school students do not have access to the high school area, separate middle school and high school beverage standards may be implemented by the school.

**6.*** If the SFA has an open campus and allows for the ordering and delivery of foods (such as pizza delivery) outside of school, is this practice still allowable based on the Smart Snacks Rule?**
The Smart Snacks in School statute and the regulation do not provide the Secretary with the authority to regulate foods brought from home or foods purchased outside of the school and brought onto campus for personal consumption. If the school allows students to order food from restaurants and those restaurants deliver the food or if the school is an open campus concept where students purchase lunch foods off campus to bring back to school to consume, Smart Snacks standards do not apply to those foods.